IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE EIGHTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 593 of 2005

Between:

Shakti Enterprises, With its Business Place at S.No. 24,

Ganeshpur Village, Nyakal Mandal, Medak Dsitrict,
Represented by its Sole Proprietor, Ramesh Darak
Son of late Jagnnadh Darak,
Aged about 58 years, Residing at Begum Bazar, Hyderabad.

..... PETITIONER

AND

1 The Commissioner of Prohibition and Excise, Andhra Pradesh, Hyderabad.
2 The Prohibition and Excise Superintendent, Headquarters, Sangareddy, Medak District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate order, direction or a writ particularly one in the nature of a Writ of Mandamus seeking directions to the respondents to issue No Objection Certificate to the petitioner to import and transport Molasses from other countries and from the other States to its business premises at S.No.24, Ganeshpur Village, Nyakal Mandal, Medak District, Andhra Pradesh State and for the possession and sale of molasses to the persons entitled to purchase Molasses in accordance with law.

Counsel for the Petitioner: MR.KOKA RAGHAVA RAO

Counsel for the Respondents: GP FOR PROHIBITION & EXCISE

The Court at the stage of admission made the following ORDER:

The petitioner is involved in the business of import and transport of Molasses from various places within the country and outside. It claims to be having its business premises at Ganeshpur village, Nyakal Mandal, Medak district. It intends to import Molasses from certain sugar factories in the State of Maharastra. The petitioner contends that under the Bombay Molasses Rules, 1955, the import permission or 'No Objection Certificate' (NOC) from the Excise authorities concerned of the place of import is necessary for the purpose of granting any export permit from that State and when it approached the respondents to issue 'NOC', they have not complied with the request. The petitioner accordingly seeks appropriate directions to the respondents.

Heard Sri Koka Raghava Rao, learned counsel for the petitioner and the learned Government Pleader for Prohibition & Excise.

Molasses is mostly a by-product in sugar factories. The manufacture, storage, transport and sale of Molasses was governed by the provisions of the Molasses Control Order, 1961 issued by the Central Government, in exercise of powers under Section 18-G of the Industries (Development and Regulation) Act, 1951. The Molasses Control Order was rescinded by the Central Government through notification dated 10.06.1993. In that view of the mater, there does not exist any control over the manufacture, possession, transport or

sale of Molasses. The matter is mostly governed by the Laws that are framed by the States concerned. So far as the State of Andhra Pradesh is concerned, there does not exist any principal or subordinate legislation dealing with that subject. In *M/s Gauri Industries (Manufacturers of Rectified Spirit) v. Commissioner of Prohibition & Excise, Andhra Pradesh (W.P.No.8136 of 2004)*, this aspect of the matter was dealt with and it was held that no transport permits, as such, are needed for transporting the Molasses from the State of Andhra Pradesh to any place outside it.

The petitioner intends to import Molasses from the State of Maharastra to its place of business. Therefore, it has to comply with the requirements of Law, which prevail in that State. A perusal of the Bombay Molasses Rules, 1955 discloses that export of Molasses from that State can be only on the basis of an export permit. Clause 14 thereof mandates that any person intending to obtain such a permit has to enclose the import permit or 'NOC' from the authority of the place of import. Inasmuch as there is no restriction on the import of Molasses to the State of Andhra Pradesh, the question of granting import permit does not arise. Therefore, a 'NOC' issued by the Excise authority concerned becomes necessary to enable the petitioner to seek necessary export permit from the State of Maharastra.

The petitioner has placed before this Court certain 'NOCs' issued by the first respondent and it is stated that they were issued under identical circumstances as in the present case.

Hence, the writ petition is disposed of directing that the respondents shall issue 'NOCs' to the petitioner to enable it to import Molasses from the State of Maharastra, duly verifying the extent of necessity and the nature of use to which the molasses is proposed to be imported. There shall be no order as to costs.

08.02.2005

ksld

To

1 The Commissioner of Prohibition and Excise, Andhra Pradesh,

Hyderabad.
2 The Prohibition and Excise Superintendent, Headquarters, Sangareddy, Medak District.

3 Two CCs to G.P for Prohibition & Excise, High Court of A.P. Buildings, Hyderabad.

4 Two CD Copies